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| 10/023,474 | 12/17/2001 | Luke K. Liang | | 3629 |

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03/27/2008

EXAMINER

LUGO, CARLOS

ART UNIT

PAPER NUMBER

3673

MAIL DATE

DELIVERY MODE

03/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/023,474

Applicant(s)

LIANG, LUKE K.

Examiner

Carlos Lugo

Art Unit

3673

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-26 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on February 15, 2008.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tumbler, wherein only the first pivot member would prevent further movement of the tumbler, as required in claim 10, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. **Claims 10-14 are objected** to because of the following informalities:

- Claim 10, includes the limitations presented in claims 11 and 13.
- Cancel claims 11 and 13.
- Claim 12 Line 1, change "11" to -10-.
- Claim 14 Line 1, change "13" to -12-.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

- The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claim 10-18 are rejected** under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 10 recites that the 1st pivot member prevents further travel of the tumbler when it contact the pivot member. However, the claim language suggests that ONLY this engagement prevents further rotation. The current specification does not give basis for this language. According to the specification, yes, the 1st pivot member

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prevents further travel of the tumbler when it contact the pivot member (Page 9 Lines 17-22), but also when the 2nd pivot member 50 hits the edge of the bottom plate (Page 10 Lines 1-5).

Therefore, in order to continue with the examination, claims 10, 11 and 13 would be examined as one claim (the drawing correction would be withdrawn with this interpretation). Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-3 and 5-9 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,248,174 to Matz et al (Matz) in view of US Pat No 1,656,818 to Dillon.

Regarding claim 1, Matz discloses a vent stop comprising a housing (113) adapted to be disposed in a recess.

The housing includes a cavity with a bottom plate (112) and a rear wall. The bottom plate has a top surface forming at least a portion of an inside surface of the cavity.

The stop also comprises a tumbler (103) disposed in the cavity. The tumbler includes a protruding apex at the top, pivot means (38) for pivotally securing the tumbler to the housing for movement between an extended position where a front

face of the tumbler overlies an edge of the sliding member to prevent movement of the sliding member past the front face of the tumbler, and a retracted position within the cavity where the sliding member can be moved past the tumbler. The pivot means extends from an inside wall of the housing, and has an upper and a lower surface.

The tumbler further comprises a first pivot member that is capable of being in contact with the pivot means (38) when the tumbler is in the extended position (Figure 6, the opening contact the surface of 38), and a second pivot member that contact the bottom surface of the housing to prevent over travel of the tumbler (see attachment #1).

The stop further comprises spring means (123) for biasing the tumbler into the extended position.

However, Matz fails to disclose that the tumbler has a pivot member that has a bottom plate contact surface that contacts the edge of the bottom plate when the tumbler is in an extended position thereby being prevented from further travel by the edge. Matz discloses that the housing includes a protrusion (114) wherein the tumble contacts a side of the protrusion with the second pivot member (101,106).

Dillon teaches that it is well known in the art to provide a pivotally stop member (40) having a pivot member (surface between 41 and 45a) that contact an edge of a plate surface (37) so as to prevent further travel of the stop member. The edge defines an opening in the housing.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pivot member described by Matz in contact with the edge of the plate, as taught by Dillon, since the fact that the pivot member contacting the edge or the body of the bottom plate is a design consideration within the art since it would not affect the movement of the tumble. With either surface, it would stop further traveling of the member.

As to claim 2, Matz illustrates that the housing (113) has a faceplate (at 122) and first and second housing members extending from the faceplate and wherein the bottom plate extends from at least one of the housing members (Figures 5 and 6).

As to claim 3, Matz illustrates that the first and second housing members are generally perpendicular to the faceplate and at least a portion of the bottom member is generally parallel to the faceplate (Figures 5 and 6).

As to claims 5-8, the fact that the sliding member is a double hung window, a window, a sash in a sliding window, or a door, it is considered as the intended use of the vent stop. The recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus, which differentiates it from a prior art reference disclosing the structural limitations of the claim.

As to claim 9, Matz, as modified by Dillon, teaches that a force of the tumbler on the bottom plate is capable of being parallel to the top surface of the bottom plate when the tumbler is in an extended position.

Allowable Subject Matter

8. **Claims 19-26 are allowed.**
9. **Claim 10 would be allowable** if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
10. **Claims 12 and 14-18 would also be allowed** because the claims depend from claim 10.
11. At the instant, the prior art fails to disclose that the 1st and 2nd pivot members prevents further travel of the tumbler when the 1st pivot member contact the pivot means and when the 2nd pivot member hits the edge of the bottom plate (claim 10, as interpreted), and that the tumbler has front and rear faces, wherein the 1st and 2nd pivot members extends from the rear face of the tumbler (claim 19).

Matz discloses that the tumbler is only prevented from further rotation when the edge of the tumbler contacts the bottom plate, and that the 1st and 2nd pivot members are part of the tumbler main body.

Response to Arguments

12. Applicant's arguments filed February 15, 2008, with respect to the rejection of claims 1-3 and 5-9 in view of Matz, as modified by Dillon are still not persuasive. Therefore, that rejection has been maintained.

As to claims 10-18, a 112 1st paragraph rejection has been made on the record, but could be withdrawn and put in condition for allowance if the applicant make the changes on the Claim Objection section above.

As to claims 19-26, the amendment overcomes the rejection.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 571-272-7058. The examiner can normally be reached on 10-7pm EST.

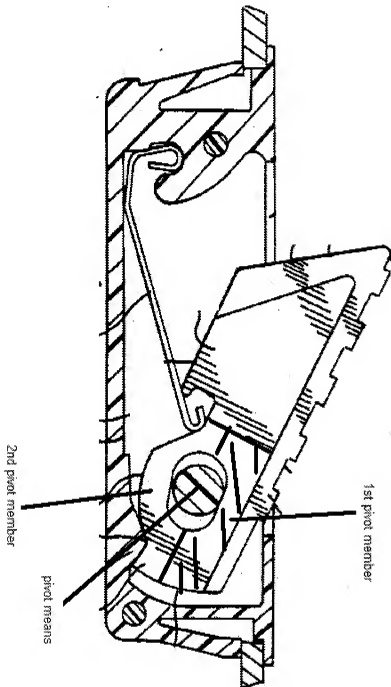
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

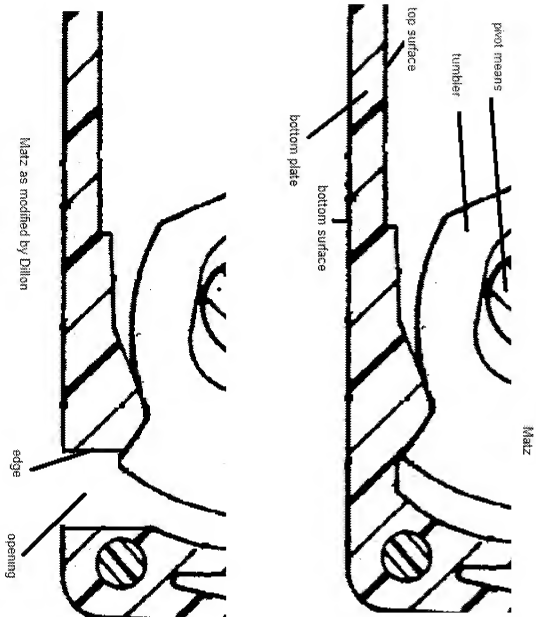
If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos Lugo/
Primary Examiner
Art Unit 3673

March 24, 2008.



Attachment #1



Attachment #2